

CCRB INVESTIGATIVE RECOMMENDATION

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|--|---|---------------------------|--|---|---------------------------------|
| Investigator: Owen Godshall | Team: Squad #10 | CCRB Case #: 201702492 | <input checked="" type="checkbox"/> Force | <input checked="" type="checkbox"/> Discourt. | <input type="checkbox"/> U.S. |
| | | | <input checked="" type="checkbox"/> Abuse | <input type="checkbox"/> O.L. | <input type="checkbox"/> Injury |
| Incident Date(s) Saturday, 03/25/2017 6:15 AM | Location of Incident: 130 Lincoln Avenue | Precinct: 122 | 18 Mo. SOL 9/25/2018 | EO SOL 9/25/2018 | |
| Date/Time CV Reported Sat, 03/25/2017 7:10 AM | CV Reported At: IAB | How CV Reported: Phone | Date/Time Received at CCRB Fri, 03/31/2017 10:57 AM | | |

| Complainant/Victim | Type | Home Address |
|--------------------|------|--------------|
| | | |
| | | |
| | | |
| | | |

| Witness(es) | Home Address |
|-------------|--------------|
| | |
| | |

| Subject Officer(s) | Shield | TaxID | Command |
|-----------------------|--------|--------|---------|
| 1. POM Robert Ramirez | 20138 | 929005 | 122 PCT |
| 2. POM Steven Baisden | 18985 | 959468 | 122 PCT |

| Witness Officer(s) | Shield No | Tax No | Cmd Name |
|------------------------|-----------|--------|----------|
| 1. SGT Hassan Darwiche | 05245 | 946897 | 122 PCT |
| 2. POM Phillip Alfano | 04247 | 948600 | 122 PCT |
| 3. POM Erik Miller | 05745 | 942210 | 122 PCT |
| 4. POM Michael McCabe | 21309 | 959801 | 122 PCT |

| Officer(s) | Allegation | Investigator Recommendation |
|----------------------|--|-----------------------------|
| A.POM Robert Ramirez | Abuse: Police Officer Robert Ramirez refused to provide his shield number to § 87(2)(b) | |
| B.POM Robert Ramirez | Discourtesy: Police Officer Robert Ramirez spoke discourteously to § 87(2)(b) and § 87(2)(b) | |
| C.POM Robert Ramirez | Force: Police Officer Robert Ramirez used a chokehold against § 87(2)(b) | |
| D.POM Robert Ramirez | Force: Police Officer Robert Ramirez used physical force against § 87(2)(b) | |
| E.POM Steven Baisden | Abuse: Police Officer Steven Baisden frisked § 87(2)(b) | |

Case Summary

On March 25, 2017, § 87(2)(b) and § 87(2)(b) filed this complaint with IAB via telephone on behalf of themselves and § 87(2)(b)'s brother, § 87(2)(b) § 87(2)(b) a bystander, also filed a complaint with IAB via telephone regarding the same incident. On March 31, 2017, the two complaints were forwarded together to the CCRB via IAB log #2017-11424.

At approximately 6:15 a.m. on March 25, 2017, PO Robert Ramirez and PO Phillip Alfano of the 122nd Precinct traveled to Parker's Pub, a bar located at 130 Lincoln Avenue in Staten Island, to respond to a noise complaint. Several civilians were at the bar at the time, including § 87(2)(b)

§ 87(2)(b) and § 87(2)(b) § 87(2)(b). At some point, § 87(2)(b) asked PO Ramirez for his shield number. PO Ramirez allegedly refused to provide it (**Allegation A**). § 87(2)(b) and § 87(2)(b) began to argue with PO Ramirez on the sidewalk in front of the bar, accusing him of harassing them. During this argument, PO Ramirez allegedly used profanity numerous times (**Allegation B**).

Several other officers traveled to the bar as well, including Sgt. Hassan Darwiche and PO Steven Baisden, also of the 122nd Precinct. § 87(2)(b) continued to argue with PO Ramirez. PO Ramirez subsequently placed § 87(2)(b) into handcuffs, intending to remove him to the 122nd Precinct stationhouse and issue him a summons for § 87(2)(a) 160.50. When § 87(2)(b) was handcuffed, § 87(2)(b) became extremely agitated and started shouting at the officers. When he approached § 87(2)(b) PO Ramirez pushed § 87(2)(b) against the side of the building (**Allegation C**). While doing so, PO Ramirez allegedly choked him (**Allegation D**). PO Baisden then allegedly frisked § 87(2)(b)'s torso (**Allegation E**). § 87(2)(b) then lay down on the ground, complaining of pain from PO Ramirez pushing him. An ambulance was called for § 87(2)(b). He was transported to § 87(2)(b), where he was given a psychiatric examination. § 87(2)(b) was subsequently taken to the stationhouse, where PO Ramirez issued him a summons for § 87(2)(a) 160.50.

§ 87(2)(b) provided video footage of the incident taken from a security camera outside of the bar. It has been attached in IAs # (See Board Review #01-03: Video Footage) and summarized in IA # (See Board Review #04: Video Summary). SnagIt captures depicting relevant portions of the incident have been attached below. § 87(2)(b) showed video footage taken of the incident by an unidentified bystander on his cell phone. He did not, however, provide the CCRB with this footage. No other footage was found of the incident.

§ 87(2)(g)
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Mediation, Civil and Criminal Histories

- This case was ineligible for mediation because the civilians made a complaint regarding ongoing harassment by officers from the 122nd Precinct.
- A Notice of Claim request was submitted to the NYC Comptroller's Office on August 1, 2017. It will be included in the case file upon receipt.

- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Civilian and Officer CCRB Histories

- This is the first CCRB complaint filed by or involving [§ 87(2)(b)]
or [§ 87(2)(b)] [REDACTED]
- [§ 87(2)(b)] [REDACTED] filed one previous complaint, [§ 87(2)(b)] [REDACTED]
[REDACTED]
- PO Ramirez has been a member of the service for sixteen years and there are four previous CCRB allegations substantiated against him.
 - In case #201112020, vehicle stop, vehicle search and discourtesy (word) allegations were substantiated against him. The CCRB recommended that he received charges, but the NYPD took no disciplinary actions against him.
 - In case #201502088, a refusal to provide name and/or shield number allegation was substantiated against him. The CCRB recommended that he receive formalized training. The NYPD gave him instructions.
 - PO Ramirez has been the subject of forty-five allegations across eighteen complaints. He has been the subject of nine previous discourtesy (word) allegations, one of which was closed as substantiated. He has been the subject of nine previous physical force allegations, none of which have been substantiated. One previous chokehold allegation against him was closed as unsubstantiated. He has been the subject of two previous refusal to provide name and/or shield number allegations, one of which was closed as substantiated.
- PO Baisden has been a member of the service for one year. This is the first CCRB allegation made against him.

Potential Issues

- [§ 87(2)(b), § 87(2)(g)] [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

- § 87(2)(b) provided his address and telephone number in his initial complaint. Lexis Nexis and CLEAR searches returned three additional telephone numbers, one additional address and an email address for him. Between April 4, 2017 and May 1, 2017, six telephone calls were made to § 87(2)(b) at his various numbers. Two of the numbers were found to be out of service. Messages were left at the active numbers. Please-call letters were sent to § 87(2)(b)'s addresses on April 4, 2017, April 11, 2017 and April 13, 2017. None of these letters were returned to the CCRB by the US Postal Service. To date, § 87(2)(b) has not responded to these contact attempts. An August 1, 2017 search of the NYC Department of Correction's online inmate database showed that he is not currently incarcerated.
- An unidentified female called 911 to report the incident. The call was made during the incident itself. The female did not provide her name or address, but her phone number was recorded. CLEAR and Lexis Nexis searches indicated that the number belonged to § 87(2)(b). One address was found for § 87(2)(b). Between June 26, 2017 and July 5, 2017, five telephone calls were made to the phone number. Voicemails were left on each call. Please-call letters were sent to § 87(2)(b)'s address on June 26, 2017, July 3, 2017 and July 10, 2017. None of these letters were returned to the CCRB by the US Postal Service. To date, § 87(2)(b) has not responded to these contact attempts. An August 1, 2017 search of the NYC Department of Correction's online inmate database showed that she is not currently incarcerated.
- During their sworn statements, § 87(2)(b) and § 87(2)(b) identified several other witnesses who were present during the incident, including their other brother § 87(2)(b) and § 87(2)(b)'s wife, § 87(2)(b). § 87(2)(b)'s contact information was obtained from the AIDED report that was prepared when § 87(2)(b) was removed to the hospital. CLEAR and Lexis Nexis searches returned one additional telephone number for § 87(2)(b) and an address for § 87(2)(b). Between June 26, 2017 and July 9, 2017, five calls were made to each of § 87(2)(b)'s telephone numbers. Voicemails were left on the first number, but the phone rang out on each call to the second number. Please-call letters were mailed to § 87(2)(b) and § 87(2)(b) on June 26, 2017, July 3, 2017 and July 10, 2017. None of these letters were returned to the CCRB by the US Postal Service.

Findings and Recommendations

Identification of Subject Officers

- § 87(2)(b) alleged that he attempted to read the shield numbers of two of the officers. He was able to read one of their shield numbers as "4247," but could not see the shield number of this officer's partner. When he asked this officer for his shield number, the officer covered his shield and refused to tell § 87(2)(b) his shield number. PO Alfano's shield number is "4247." PO Ramirez identified himself as PO Alfano's partner. § 87(2)(g)

Allegations Not Pleaded

- **Abuse of Authority – Threat of Arrest:** § 87(2)(b) alleged that while he was arguing with PO Ramirez, PO Ramirez asked him for his identification. § 87(2)(b) refused to provide it. PO Ramirez told him, “If you don’t have your ID, I’m gonna lock you up.” § 87(2)(b) still refused to provide his identification. PO Ramirez subsequently placed § 87(2)(b) in handcuffs and transported him to the 122nd Precinct. There, he issued § 87(2)(b) a summons for § 87(2)(a) 160.50 . § 87(2)(g) .

Allegation A – Discourtesy: Police Officer Robert Ramirez refused to provide his shield number to § 87(2)(b)

During his initial complaint, § 87(2)(b) stated that at some point during the incident, he asked PO Ramirez for his shield number. PO Ramirez responded by placing his hand over his shield and stating, “You don’t need my shield. There’s nothing going on.” As discussed above, § 87(2)(b) did not provide a sworn statement regarding the incident.

§ 87(2)(b) was interviewed at the CCRB on June 5, 2017. § 87(2)(b) was interviewed at the CCRB on July 25, 2017 (See Board Review #07-08: Civilian Statements). Neither of them made any mention of § 87(2)(b) asking an officer for their name or shield number. Neither them mentioned § 87(2)(b) speaking to any of the officers during the incident.

PO Ramirez and PO Baisden were interviewed at the CCRB on July 17, 2017 (See Board Review #09-10: MOS Statements). PO Ramirez stated that § 87(2)(b) asked him for his name and shield number, and that he provided this information verbally. He denied refusing to provide his information to a civilian. PO Baisden did not hear any civilian ask for any officer’s name or shield number.

§ 87(2)(g) .

Allegation B – Discourtesy: Police Officer Robert Ramirez spoke discourteously to

§ 87(2)(b) **and** § 87(2)(b)

§ 87(2)(b) alleged during his sworn statement that before § 87(2)(b) was placed in handcuffs, he, § 87(2)(b) and PO Ramirez engaged in a three-way argument. All three of them used profanity during this argument. § 87(2)(b) did not recall specific statements that PO Ramirez made, but stated that he used the words “fuck,” “shit,” and “motherfucker.” He also told § 87(2)(b) at one point to “go to hell.” § 87(2)(b) denied that he had been drinking or was intoxicated.

§ 87(2)(b) also stated that he and § 87(2)(b) argued with PO Ramirez. While he stated that § 87(2)(b) cursed at PO Ramirez, he did not use profanity himself. § 87(2)(b) did not recall PO Ramirez using profanity at any time during the incident. § 87(2)(b) denied that he or § 87(2)(b) had been drinking, or that either of them were intoxicated.

PO Ramirez confirmed that he argued with § 87(2)(b) and § 87(2)(b). He denied using the words “fuck,” “shit,” or “motherfucker” while addressing them. He denied telling any of the civilians to “go to hell.” PO Ramirez denied using profanity at any point during the incident. He did not recall suspecting that § 87(2)(b) was intoxicated during the incident.

PO Baisden denied hearing PO Ramirez use profanity at any time. PO Baisden suspected that § 87(2)(b) was intoxicated, but had no suspicion that § 87(2)(b) was intoxicated.

§ 87(2)(b) was eventually transported to § 87(2)(b). His prehospital care summary indicates that he was intoxicated at the time. The narrative states that § 87(2)(b) denied consuming alcohol before he was treated. An unidentified brother, however, stated that he had been drinking earlier. § 87(2)(b)'s breath also smelled of alcohol (See Board Review #11: Medical Records).

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Allegation C – Force: Police Officer Robert Ramirez used a chokehold against § 87(2)(b)
§ 87(2)(b)

During his initial complaint, § 87(2)(b) stated that during the incident, PO Ramirez threw him against a gate on the side of the bar and choked him. During his sworn statement, however, § 87(2)(b) instead stated that PO Ramirez placed a hand on his chest, near his neck, and pushed him backwards. He did not allege that PO Ramirez choked him or otherwise touched his neck. He made no mention of having difficulty breathing at any time.

§ 87(2)(b) also stated that PO Ramirez pushed § 87(2)(b) backwards. He alleged that PO Ramirez did so by placing his left hand on § 87(2)(b)'s neck. He further alleged that once

§ 87(2)(b) was against the gate, PO Ramirez held him there for several seconds by his neck. § 87(2)(b) also showed video footage taken of the incident taken by an unidentified bystander. The footage depicted § 87(2)(b) lying on the sidewalk, stating, “I can’t fucking breathe” in a rasping voice. § 87(2)(b) stated that this occurred about after PO Ramirez had made contact with § 87(2)(b)’s neck. During that time, § 87(2)(b) had started to hyperventilate. § 87(2)(b) denied that any of the officers were making contact with § 87(2)(b) when he complained about having trouble breathing. § 87(2)(b) did not ultimately provide this footage to the CCRB. § 87(2)(b) also noted that § 87(2)(b) had been diagnosed with an anxiety disorder prior to the incident.

PO Ramirez and PO Baisden both denied that PO Ramirez made contact with § 87(2)(b) at any time. They denied that PO Ramirez made contact with § 87(2)(b)’s neck or placed him in a chokehold. PO Ramirez recalled that § 87(2)(b) did complain that he was having trouble breathing after § 87(2)(b) had been taken into custody. PO Ramirez denied that he was making contact with § 87(2)(b) at the time. He did not recall if § 87(2)(b) was standing or on the ground at the time, or if any officers were making contact with him. PO Baisden denied that § 87(2)(b) complained of having difficulty breathing at any time.

§ 87(2)(b)’s medical records state that he informed his physicians that somebody had grabbed his neck during the incident. He also stated that he had recently been diagnosed with an anxiety disorder and had suffered an anxiety attack during the incident. The records indicate that he did not have any injuries to his neck. § 87(2)(b) did not have any pain in his neck or difficulty breathing (See Board Review #11: Medical Records).



201702492 - Snagit.mp4

§ 87(2)(b) provided video footage of the incident recorded from a security camera. A Snagit capture has been attached above, depicting his interaction with PO Ramirez (See Board Review #12: Snagit capture). § 87(2)(b) and PO Ramirez both viewed this video and identified § 87(2)(b) as the male wearing the red shirt and PO Ramirez as the uniformed officer standing furthest to the left. At 00:10, PO Ramirez is seen pushing § 87(2)(b) against the side of the building and holding him there for approximately five seconds using his left hand. PO Ramirez’s hand is placed in the center of § 87(2)(b)’s chest, and does not make contact with § 87(2)(b)’s neck at any time. No other officers are seen touching § 87(2)(b)’s neck during the incident.

§ 87(2)(g)
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Allegation D – Force: Police Officer Robert Ramirez used physical force against § 87(2)(b)

It is undisputed that after PO Ramirez argued with § 87(2)(b) and § 87(2)(b) PO Ramirez decided to issue § 87(2)(b) a summons for § 87(2)(a) 160.50. § 87(2)(b) refused to provide his identification. PO Ramirez placed § 87(2)(b) in handcuffs in order to take him into custody.

§ 87(2)(g)

As stated before, § 87(2)(b) stated in his initial complaint that PO Ramirez pushed him against a gate on the side of the building and threw him to the ground. During his sworn statement, § 87(2)(b) alleged that after PO Ramirez placed § 87(2)(b) in handcuffs, he told § 87(2)(b) to turn around and face the wall as well. Before § 87(2)(b) did so, PO Ramirez placed his open palm on § 87(2)(b)'s chest and pushed him backwards. This caused § 87(2)(b) to stagger back and strike the back of his head on a gate on the side of the building. The impact caused a bump on the back of § 87(2)(b)'s head, and caused him to feel dizzy. § 87(2)(b) then collapsed to the ground a few seconds later. He denied losing consciousness. He did not allege being forced down to the ground by an officer.

§ 87(2)(b) stated that once PO Ramirez placed him in handcuffs, § 87(2)(b) became upset and agitated. He told PO Ramirez to arrest him as well, and placed his hands behind his back to allow himself to be handcuffed. PO Ramirez then pushed § 87(2)(b) backwards using his left hand, making contact with § 87(2)(b)'s chest near his throat. The back of § 87(2)(b)'s head struck the gate as a result of his push. PO Ramirez then moved his hand down to § 87(2)(b)'s torso and held him there for several seconds before releasing him. Later, § 87(2)(b) started to hyperventilate. He then sat down on the sidewalk. He was not pushed or forced to the ground.

PO Ramirez stated that after he handcuffed § 87(2)(b) § 87(2)(b) became upset and started to bang his own head against the gate on the side of the building. § 87(2)(b) then threw himself onto the ground and started to roll around. PO Ramirez denied taking any physical actions towards § 87(2)(b) at that time. He denied pushing § 87(2)(b) PO Ramirez was then shown the video footage showing him making contact with § 87(2)(b) When asked why he did this, PO Ramirez stated that he had held his hand out in order to prevent § 87(2)(b) from approaching § 87(2)(b) He also stated that he did not push § 87(2)(b) when he held his hand out, and that § 87(2)(b) flung himself backwards while PO Ramirez's hand was outstretched.

PO Baisden also stated that § 87(2)(b) started to bang his own head against the gate on the side of the building. He denied that PO Ramirez made contact with § 87(2)(b) at that time, and denied that any officer pushed § 87(2)(b) against the gate or down to the ground. When PO Baisden was shown the video footage depicting PO Ramirez making contact with § 87(2)(b) he stated that he had no independent recollection of this action.

§ 87(2)(b)'s medical records indicated that he had no injuries to his head, including any lumps or bruises (See Board Review #11: Medical Records).

As discussed earlier, the first SnagIt capture shows that PO Ramirez pushed § 87(2)(b) against the side of the building using his left hand. He held § 87(2)(b) there for about five seconds before releasing him. In the moments before PO Ramirez took this action, § 87(2)(b) is seen standing directly next to another male being placed in handcuffs by PO Ramirez. § 87(2)(b) PO Ramirez and PO Baisden all identified this male as § 87(2)(b). As § 87(2)(b) was being placed in handcuffs, § 87(2)(b) stood immediately to his left and gestured animatedly.



201702492 - SnagIt 2.mp4

A second SnagIt capture, which begins where the first capture ended, shows that § 87(2)(b) remained standing for approximately thirty seconds after PO Ramirez released him (See Board Review #13: SnagIt Capture). § 87(2)(b) then sat down on the sidewalk for several seconds before lying down. § 87(2)(b) took these actions himself, and was not forced down by any of the officers.

NYPD Patrol Guide procedure 221-01 states that officers may use force in order to place a person in custody. Officers may use the reasonable amount of force necessary to gain control of a subject (See Board Review #14: Legal Reference).

§ 87(2)(g)
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§ 87(2)(g)
[Redacted text block]

§ 87(2)(g)
[Redacted text block]

§ 87(2)(g)
[Redacted text block]

Allegation E – Abuse of Authority: Police Officer Steven Baisden frisked § 87(2)(b)

It is undisputed that while § 87(2)(b) was being arrested, PO Baisden placed his hands on § 87(2)(b)'s body. § 87(2)(g).

§ 87(2)(b) and § 87(2)(b) alleged that after PO Ramirez pushed him against the gate, PO Baisden down § 87(2)(b)'s body. Both of them characterized PO Baisden's actions as a frisk, rather than a use of force. § 87(2)(b) stated that PO Baisden patted the exterior of § 87(2)(b)'s waist and pants pockets. § 87(2)(b) indicated that PO Baisden patted the sides of § 87(2)(b)'s torso. Both stated that PO Baisden did not reach into § 87(2)(b)'s pockets or remove any items from his person.

PO Baisden stated that while PO Ramirez was arresting § 87(2)(b) § 87(2)(b) repeatedly struck the back of his own head against the gate on the side of the building. PO Baisden moved to stop § 87(2)(b) from striking his head and potentially injuring himself. He did not recall what, specifically he did, but stated that he made physical contact with § 87(2)(b) somewhere on his body. PO Baisden denied patting down or frisking § 87(2)(b). He denied that § 87(2)(b) was being arrested or otherwise brought into custody at the time. He denied having any suspicion that § 87(2)(b) was carrying a weapon.

PO Ramirez also stated that § 87(2)(b) started to strike the back of his head against the gate during § 87(2)(b)'s arrest. PO Baisden placed his hand between the gate and § 87(2)(b)'s head in order to prevent § 87(2)(b) from hurting himself. He denied that PO Baisden or any other officer frisked § 87(2)(b) while he was against the wall. He also denied that § 87(2)(b) was considered to be under arrest or otherwise held in police custody at that time. PO Ramirez did not suspect that § 87(2)(b) was carrying a weapon.

The first SnagIt capture, attached above, shows § 87(2)(b)'s arrest and § 87(2)(b)'s subsequent response. As noted above, the video shows PO Ramirez push § 87(2)(b) away from § 87(2)(b) and up against the gate. At 00:20 on this recording, § 87(2)(b) turns around to face the gate. An officer then walks up behind § 87(2)(b) and places a hand on the side of § 87(2)(b)'s torso. The officer's hand moves up and down for a few seconds. No further contact is made with § 87(2)(b).

Upon viewing this footage, PO Baisden identified himself as the officer whose hand makes contact with § 87(2)(b)'s torso. He stated that the contact shown on the video was his attempt to keep § 87(2)(b) from striking his head on the gate. He also noted that he was attempting to hold § 87(2)(b) away from § 87(2)(b) in order to allow PO Ramirez to arrest § 87(2)(b). When PO Ramirez was shown the footage, he stated that he had no independent recollection of any officer taking this action towards § 87(2)(b).

An officer must possess a reasonable suspicion that an individual is armed in order to frisk them. An officer may also frisk a suspect when placing an individual into police custody. People v. Smith, LEXIS 9555 (App. Term, 4th Dept., 2015) (See Board Review #15: Legal Reference).

§ 87(2)(g) [Redacted text block]

§ 87(2)(g) [Redacted text block]

Squad:

| | | | |
|---------------|-----------------|-------|-------|
| Investigator: | _____ | _____ | _____ |
| | Signature | Print | Date |
| Squad Leader: | _____ | _____ | _____ |
| | Title/Signature | Print | Date |
| Reviewer: | _____ | _____ | _____ |
| | Title/Signature | Print | Date |